

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MATITYAU MOSHE MALKA and  
MORDECHAY MALKA,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 05/26/2022

S3 19-CR-497 (NSR)  
(05) (09)

ORDER

NELSON S. ROMÁN, United States District Judge:


By their oral motion dated May 26, 2022, counsel for Defendants Matityau Moshe Malka (05) and Mordechay Malka (09) request the Court for an order allowing them to meet with their clients past the allowed visitation hours at the Westchester County Jail so that they can prepare their respective clients' anticipated trial testimony taking place tomorrow morning at 9:00 a.m.

In *Rock v. Arkansas*, 483 U.S. 44 (1987), the Supreme Court ruled that the right to testify at one's criminal trial, although not found in the text of the Constitution, "has sources in several provisions of the Constitution," *id.* at 51, including the Due Process Clause of the Fifth and Fourteenth Amendments, *id.*, and the Compulsory Process Clause of the Sixth Amendment, *id.* at 52. Moreover, "[t]he opportunity to testify is also a necessary corollary to the Fifth Amendment's guarantee against compelled testimony." *Id.*; see *United States v. Bifield*, 702 F.2d 342, 349 (2d Cir. 1983).

Accordingly, the Court ORDERS that Westchester County Jail SHALL provide Defendants Matityau Moshe Malka (05) and Mordechay Malka (09), and their counsel, Ms. Susan Wolfe, Mr. Ezra Spilke, Mr. Joseph Vita, and Mr. Howard Tanner, a private conference room past visitation hours so that they can adequately prepare for tomorrow's anticipated trial testimony.

Dated: May 26, 2022  
White Plains, NY

SO ORDERED

  
HON. NELSON S. ROMAN  
UNITED STATES DISTRICT JUDGE